



2022/XXXX(DEA)

XX.X.2022

MOTION FOR A RESOLUTION

pursuant to Rule 111(3) of the Rules of Procedure

on the Commission Delegated Regulation (EU) .../... of 2 February 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities

**Committee on Economic and Monetary Affairs
Committee on the Environment, Public Health and Food Safety**

Members Responsible:

Othmar Karas
Christoph Hansen
Sirpa Pietikainen
Alexander Bernhuber
Paul Tang
Simona Bonafe
Martin Hojsik
Linea Sogaard
Emma Wiesner
Monica Semedo
Claudia Gamon
Roza Thun und Hohenstein
Bas Eickhout
Michael Bloss

European Parliament resolution on the Commission Delegated Regulation (EU) .../... of 2 February 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities

The European Parliament,

- having regard to the Commission Delegated Regulation (EU) .../... of 2 February 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities (Complementary Delegated Act),
- having regard to Article 290 of the Treaty on the Functioning of the European Union,
- having regard to the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol thereto,
- having regard to the Agreement adopted at the 21st Conference of the Parties to the UNFCCC (COP21) in Paris on 12 December 2015 (the Paris Agreement), in particular its Article 2(1)(c),
- having regard to Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088¹, and in particular Articles 10(3), 11(3) and 23(6) thereof,
- having regard to Regulation (EU) 2021/1119 of the European Parliament and of the

¹ OJ L 198, 22.6.2020, p. 13.

- Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law')²,
- having regard to Decision (EU) 2022/XXXX of the European Parliament and of the Council of XX XXX 2022 on a General Union Environment Action Programme to 2030 ('8th EAP')³,
 - having regard to the letter from the Chairs of the Committee on Economic and Monetary Affairs and of the Committee on the Environment, Public Health and Food Safety of 18 January 2022 to Commissioner McGuinness on concerns about the Commission procedure for the adoption of the Complementary Delegated Act covering certain additional energy activities pertaining to nuclear energy and gas,
 - having regard to the Response of the Platform on Sustainable Finance of 21 January 2022 to the Commission delegated regulation of XX XXX 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities (C(2022)XXXX),
 - having regard to the Statement by the Chair of the EU Platform on Sustainable Finance of 3 February 2022,
 - having regard to the report of the Platform on Sustainable Finance on environmental transition taxonomy,
 - having regard to Rule 111(3) of its Rules of Procedure,
- A. whereas Regulation (EU) 2020/852 establishes the criteria for determining whether an economic activity qualifies as environmentally sustainable for the purposes of establishing the degree which an investment is environmentally sustainable;
- B. whereas Article 3 of Regulation (EU) 2020/852 lays down four cumulative conditions for an economic activity to qualify as environmentally sustainable, being that this economic activity shall contribute substantially to one or more of the environmental objectives set out in Article 9 of Regulation (EU) 2020/852 in accordance with Articles 10 to 16, does not significantly harm any of the environmental objectives set out in Article 9 in accordance with Article 17, is carried out in compliance with the minimum safeguards laid down in Article 18, and complies with the technical screening criteria that have been established by the Commission in accordance with Articles 10(3), 11(3), 13(2), 14(2) or 15(2);
- C. whereas Article 10 of Regulation (EU) 2020/852 distinguishes between economic activities that contribute substantially to climate change mitigation in paragraph 1, and activities that supports the transition to a climate-neutral economy in consistency with a pathway to limit the temperature increase to 1,5°C above pre-

² OJ L 243, 9.7.2021, p.1.

³ OJ L XXX, XXXX 2022, p. X. https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/220121-sustainable-finance-platform-response-taxonomy-complementary-delegated-act_en.pdf

industrial levels and for which there is no technologically and economically feasible low-carbon alternative in paragraph 2, provided that those activities have greenhouse gas emission levels that correspond to the best performance in the sector or industry, do not hamper the development and deployment of low-carbon alternatives, and do not lead to a lock-in of carbon-intensive assets, considering the economic lifetime of those assets;

- D. whereas point (i) of Article 19(1) of Regulation (EU) 2020/852 requires the technical screening criteria to take into account the potential market impact of the transition to a more sustainable economy, including the risk of certain assets becoming stranded as a result of such transition, as well as the risk of creating inconsistent incentives for investing sustainably;
- E. whereas Articles 23(4) and 23(5) of Regulation (EU) 2020/852 instruct the Commission to gather all necessary expertise prior to the adoption and during the development of delegated acts setting up the technical screening criteria, to act in accordance with the principles and procedures laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, and to notify simultaneously to the European Parliament and to the Council when it adopts a delegated act;
- F. whereas point 13 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making instructs the Commission to carry out impact assessments of its delegated acts which are expected to have significant economic, environmental or social impacts, and that the final results of the impact assessments shall be made available to the European Parliament, the Council and national Parliaments, and will be made public at the time of adoption of the delegated act;
- G. whereas the Better Regulation Guidelines adopted on 3 November 2021 provides that stakeholders must be able to give feedback on draft delegated acts of general application through the launch of a four-week public consultation;
- H. whereas a draft of the Complementary Delegated Act was transmitted to Member States during the night of 31 December 2021, without consulting the European Parliament;
- I. whereas the European Parliament, as a co-legislator, has equal standing in the decision-making process concerning the Taxonomy Regulation, but has not received a proper opportunity such as that given to the Council to provide its views and comments ahead of the publication the proposed Complementary Delegated Act;
- J. whereas in the letter of 18 January 2022 sent by the Chair of the Committee on Economic and Monetary Affairs and the Chair of the Committee on the Environment, Public Health and Food Safety to the Commission, a majority of the Committees' coordinators requested that the Commission open the draft Complementary Delegated Act to a public consultation and expressed concern at the lack of a meaningful impact assessment of the Act;
- K. whereas, despite the Parliament's request, the draft Complementary Delegated Act

has not been subjected to a dedicated public consultation nor to a dedicated impact assessment, in contrast to the process that led to the adoption of Commission Delegated Regulation (EU) 2021/2139;

- L. whereas the Technical Expert Group on sustainable finance, which was established by the Commission to provide advice to the Commission on the criteria for the Delegated Act adopted in July 2021, in its advice published on 9 March 2020 had already taken a position on the scientific basis for including these activities in the Taxonomy of environmentally sustainable activities, as required under Article 19 of the Taxonomy Regulation;
- M. whereas Article 20 of Regulation (EU) 2020/852 establishes the EU Platform on Sustainable Finance, with the aim to provide expertise and advice to the Commission when establishing and updating technical screening criteria;
- N. whereas the EU Platform on Sustainable Finance concluded in its advice of 21 January 2022 that the proposed criteria are not consistent with the provisions of the Taxonomy Regulation, and that the relevant activities cannot be considered sustainable within the meaning of the Taxonomy Regulation;
- O. Whereas the Platform on Sustainable Finance highlights usability and legal concerns for potential investors as well as concerns about financial market losses;
- P. whereas the Chair of the EU Platform on Sustainable Finance stated on 3 February 2022 that the draft Complementary Delegated Act constitutes an evident departure from a science-based approach that risks weakening the integrity of sustainable finance;
- Q. whereas the stated aim of Regulation (EU) 2020/852 is to increase transparency, credibility and consistency in the classification of such activities and limit the risk of greenwashing and fragmentation in relevant markets;
- R. whereas the proposed Complementary Delegated Act would instead increase the complexity of decision-making for institutional and retail investors and create additional administrative burdens for financial institutions;
- S. whereas the proposed Complementary Delegated Act therefore risks damaging the aim of the Taxonomy Regulation by creating fragmentation and confusion in EU markets and undermining the Taxonomy's credibility as a guide for investments;
- T. whereas the European Investment Bank has expressed concerns that the proposed Complementary Delegated Act could be "discredited" and could lead to the loss of investor trust;
- U. whereas the Taxonomy should avoid any incentives that would contradict the Union's urgent task of increasing energy security and energy sovereignty;
- V. whereas certain economic activities that do not meet the requirements of the Taxonomy Regulation and can therefore not be included in the Taxonomy could nevertheless still play a role in guaranteeing stable energy supply during the

transition to a sustainable economy;

1. Objects to the Commission Delegated Regulation;
2. Instructs its President to forward this resolution to the Commission and to notify it that the Delegated Regulation cannot enter into force;
3. Considers that the technical screening criteria proposed in the Commission Delegated Regulation do not respect Article 3 of Regulation 2020/852;
4. Considers that any new or amended delegated act under Regulation (EU) 2020/852 may have significant economic, environmental and social impacts, and urges therefore the Commission to ensure that they are systematically subject to public consultation and impact assessment in accordance with point 13 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making;
5. Instructs its President to forward this resolution to the Council and to the governments and parliaments of the Member States.